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Before the

**APR 23 2001**

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Petition by the United States Department of	)	NSD-L-99-24
Transportation for Assignment of an	)	
Abbreviated Dialing Code (N11) to Access	)	
Intelligent Transportation System (ITS)	)	
Services Nationwide	)	
	)	
Request by the Alliance of Information and	)	NSD-L-98-80
Referral Systems, Referral Organizations of	)	
America, Referral Organizations 211 (Atlanta,	)	
Georgia), Referral Organizations of	)	
Connecticut, Florida Alliance of Information	)	
and Referral Services, Inc., and Texas I&R	)	
Network for Assignment of 211 Dialing Code	)	
	)	
The Use of N11 Codes and Other Abbreviated	)	CC Docket No. 92-105
Dialing Arrangements	)	

To: The Commission

**VERIZON WIRELESS  
REPLY TO OPPOSITIONS**

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Dated: April 23, 2001

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## SUMMARY

Verizon Wireless sought reconsideration of the Commission's *Third Report and Order and Order on Reconsideration* ("Third Order") in this proceeding because it was adopted in violation of the Administrative Procedure Act and Regulatory Flexibility Act, but, more fundamentally, because it imposed completely unnecessary obligations on wireless carriers that would only impair market forces from meeting customer demands for abbreviated dialing services. We and other petitioners for reconsideration showed why the Commission improperly failed to consider the impact of its actions on competitive CMRS services and the significant technical and administrative burdens its actions would place on CMRS carriers.

The Petitioners raise legally incorrect arguments as to the procedural defects in the Commission's action. They, like the Commission, fail to rebut any of the concerns carriers raised about the way in which these new obligations were imposed – and about the obligations themselves. The binding legal obligations flowing from the *Third Order* are clear, and a rulemaking was therefore required. Arguments that the Commission's actions were something other than a binding rule are belied both by the plain text of the *Third Order* and by the opposing parties' apparent desire to ensure that these obligations are compulsory for carriers. The irony of this position is apparent – the opposing parties simply cannot have it both ways.

Nor do the opposing parties provide the legal and policy rationale for the new requirements that the Commission itself did not provide. They do not rebut petitioners' arguments as to why the *Third Report* undermines the proper role for carriers to define whether or how implementation of N11 codes will be provided to best suit their customers and their networks. Instead of paying lip service to pro-competitive goals and deregulation, the Commission should trust the market and carriers to provide evolving services to their customers,

including implementation of N11 codes, particularly where, as here, regulation will bring with it an enormous number of new issues that will necessarily drag the Commission into a constant role of having to supervise individual requests to carriers to provide these services.

## TABLE OF CONTENTS

SUMMARY .....	i
I. OPPONENTS OF RECONSIDERATION FAIL TO SHOW WHY THE THIRD ORDER DID NOT VIOLATE THE APA AND THE RFA.....	2
A. The Order Imposes New Rules And Is Not Merely A “Public Interest” Decision or Number Assignment .....	3
B. Those Opposing Reconsideration Fail to Show That the FCC Met Its Obligation to Consider and Address Carrier Concerns .....	6
C. The Commission’s Inconsistent Actions When Assigning Other N11 Codes Justifies Its Full and Fair Consideration Of The Parties’ Petitions .....	7
II. OPPONENTS OF RECONSIDERATION FAIL TO SHOW WHY THE COMMISSION’S IMPOSITION OF 211 AND 511 REQUIREMENTS ON CARRIERS ARE NECESSARY .....	9
A. Free Market Processes Will Maximize Consumer Welfare and Benefit the Public Interest.....	9
B. Opponents Fail to Rebut Petitioners’ Showing That the 211 Mandate Will Create Multiple Problems For CMRS Carriers.....	13
CONCLUSION .....	15

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**VERIZON WIRELESS' REPLY TO OPPOSITIONS**

Verizon Wireless hereby replies to the Oppositions to its Petition for Reconsideration ("Petition") filed pursuant to 47 C.F.R. § 1.429 with respect to the Commission's *Third Report and Order and Order on Reconsideration* ("Third Order") in this docket. These comments principally address the Oppositions of the American Association of State Highway and Transportation Officials ("AASHTO"), the Intelligent Transportation Society of America ("ITSA"), and the United Way of America, the United Way of Connecticut, the United Way of Metropolitan Atlanta, and the Alliance of Information and Referral Systems (collectively, "Referral Organizations").

**I. OPPONENTS OF RECONSIDERATION FAIL TO SHOW WHY THE *THIRD ORDER* DID NOT VIOLATE THE APA AND THE RFA.**

In its Petition, Verizon Wireless explained that the *Third Order* violated the Administrative Procedure Act (“APA”) and the Regulatory Flexibility Act (“RFA”). In response, the ITSA asserts that the Commission complied with all procedural requirements. The ITSA declares that the Commission’s assignment of 511 and 211 is the result of its plenary authority over numbering and therefore did not require the Commission to conduct a rulemaking proceeding. Similarly, the Referral Organizations state that the FCC was within its authority to make number assignments when it assigned 211 for community information and referral services. The Referral Organizations attempt to draw a distinction between a number assignment and a rulemaking by asserting that in merely making an assignment, the FCC did not violate the APA. This line of reasoning confuses separate legal points.

First, it is without question that in the *Third Order*, the Commission promulgated rules because it created binding legal obligations. It did not merely identify uses for these numbers, but adopted new and binding requirements, that obligate wireless carriers to implement the demands from certain entities to use the codes.

Second, the *Third Order* is also defective because it failed to take into consideration the uncontroverted evidence presented in comments by the wireless industry that implementation of 511 and 211 posed significant technical difficulties for wireless carriers. The Commission did not meet even its minimal duty to review and account for all substantial comments before it, in violation of basic tenants of administrative law.

Third, the FCC’s procedural course in this proceeding was inconsistent with its prior assignments of the 711 and 311 codes. The Commission’s varying approach to N11 assignments

(again, without explaining why it shifted to a new course) added still further procedural irregularities that justify reconsideration.

**A. The Order Imposes New Rules And Is Not Merely A “Public Interest” Decision or Number Assignment.**

The Referral Organizations and ITSA claim that the Commission was under no obligation to commence a rulemaking to assign the 211 and 511 codes because the assignment of these codes does not constitute a “rule” for purposes of the APA.<sup>1</sup> These arguments are contrary to law.

Although the ITSA and Referral Organizations argue that the assignment of the 211 and 511 abbreviated dialing codes does not constitute a rule, they clearly expect for the Commission’s directives to be binding.<sup>2</sup> ITSA and the Referral Organizations cannot have it both ways. Either the Commission’s assignment decision was a rule and therefore required a rulemaking pursuant to the APA, or wireless carriers should not be bound by it.

ITSA makes the rather circular argument that the *Third Order* was not the result of a rulemaking proceeding, and therefore it was not subject to the procedural requirements of the APA.<sup>3</sup> Similarly, the Referral Organizations assert that the Commission did not violate the APA because the Commission declared that it was not adopting any rules in the *Third Order* and did not conduct a Final Regulatory Flexibility Analysis (“FRFA”).<sup>4</sup> Legally, whether Commission action constitutes a “rule” may not be based on whether the Commission initiates a rulemaking or the label that the Commission uses to describe it.

The APA exempts only “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice” from the procedural requirements of notice and

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<sup>1</sup> ITSA Opposition at 7; Referral Organizations’ Opposition at 4.

<sup>2</sup> ITSA Opposition at 13; Referral Organizations’ Opposition at 17.

<sup>3</sup> ITSA Opposition at 9.

comment rulemaking.<sup>5</sup> It is generally understood that "an interpretative rule simply states what the administrative agency thinks the statute means, and only reminds affected parties of existing duties,"<sup>6</sup> whereas legislative rules affect "the manner and circumstances in which the agency will exercise its plenary power,"<sup>7</sup> and impose "a presently binding norm."<sup>8</sup>

It could not be clearer that the assignment of 211 and 511 creates new obligations for wireless carriers. The assignment of 211 and 511 for community information and traffic services, respectively, explicitly binds all carriers.<sup>9</sup> The Commission, however, did not merely designate 211 and 511 for certain uses. It also implemented the assignment with detailed requirements of general applicability to all telecommunications carriers, state commissions, and others. For example, in the case of 511, the FCC authorized state public utilities commissions to exercise jurisdiction to the extent necessary to ensure carrier compliance with transportation agencies' requests to deploy 511 expeditiously.<sup>10</sup> For 211, the FCC directed the industry that upon receipt of a request from a referral organization to use 211, the carrier must: (1) ensure that any entities that were using 211 at the local level prior to the effective date of the *Third Order* relinquish use of the code for non-compliant services; and (2) take any necessary steps (including reprogramming switch software) to complete 211 calls from its subscribers to the requesting entity in its service area.<sup>11</sup> Given the plainly binding requirements that the Commission imposed

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<sup>4</sup> Referral Organizations' Opposition at 6, n.16.

<sup>5</sup> 5 U.S.C. § 553(b) (3)(A).

<sup>6</sup> *General Motors Corp. v. Ruckelshaus*, 239 U.S. App. D.C. 408, 742 F.2d 1561, 1565 (D.C. Cir. 1984), *cert. denied*, 471 U.S. 1074, 105 S. Ct. 2153, 85 L. Ed. 2d 509 (1985) (internal citation omitted).

<sup>7</sup> *Id.*

<sup>8</sup> *Community Nutrition Institute v. Young*, 818 F.2d 943, 947 (D.C. Cir. 1987). *See also National Latino Media Coalition v. FCC*, 816 F.2d 785, slip op. at 7-8 (D.C. Cir. 1987) (distinguishing between interpretative and legislative rules).

<sup>9</sup> *Third Order* at ¶¶ 15, 21.

<sup>10</sup> *Id.* at ¶ 15.

<sup>11</sup> *Id.* at ¶ 21.

in the *Third Order*, it is simply incorrect to argue, as opponents of reconsideration do, that the agency has done anything other than promulgate rules.<sup>12</sup>

ITSA asserts that the Commission's actions have not resulted in rules, but are rather a "public interest determination regarding a scarce national resource, namely N11 codes."<sup>13</sup> Verizon Wireless does not dispute, as ITSA points out,<sup>14</sup> that the Commission has plenary authority over national numbering matters granted to it by Congress in 47 U.S.C. § 251. But the Commission's authority over an area of regulation is distinct from its obligation to comply with its procedural obligations in adopting rules based on its authority. Indeed, an agency's compliance with procedures required by law is an independent basis on which a reviewing court may overturn the agency's decision.<sup>15</sup>

The Referral Organizations assert that the Commission's action was a "number assignment," which they argue means an announcement is made to the industry that a particular number will be used for certain, defined services to warn current users of that number that they will need to relinquish their use of the number.<sup>16</sup> The APA, though, does not make exceptions from its procedural requirements for "number assignments." In any event, the Commission

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<sup>12</sup> Under the APA, there are only two other categories under which the Commission's action could possibly fall – interpretive rules or statements of policy. Certainly the Commission's action could not be characterized as rules of agency organization, procedure, or practice under 5 U.S.C. § 553(b) (3)(A). A policy statement represents an agency position with respect to how it will treat—typically enforce—the governing legal norm. Policy statements are binding on neither the public, *see, e.g., Pacific Gas & Elec. Co. v. FPC*, 164 U.S. App. D.C. 371, 506 F.2d 33, 38-39 (D.C. Cir. 1974), nor the agency. *See Vietnam Veterans of Am. v. Secretary of the Navy*, 269 U.S. App. D.C. 35, 843 F.2d 528, 537-39 (D.C. Cir. 1988). Agencies typically use interpretive rules, on the other hand, to construe the product of congressional lawmaking "based on specific statutory provisions." *See United Technologies Corp. v. EPA*, 261 U.S. App. D.C. 226, 821 F.2d 714, 719 (D.C. Cir. 1987); *see also Connecticut Dep't of Children and Youth Servs. v. HHS*, 304 U.S. App. D.C. 2, 9 F.3d 981, 984 (D.C. Cir. 1993) (interpretative rule "purports to define statutory terms").

<sup>13</sup> ITSA Opposition at 8.

<sup>14</sup> ITSA Opposition at 9.

<sup>15</sup> Compare 5 U.S.C. § 706(2)(D) (reviewing court shall hold unlawful agency's failure to observe procedures required by law) with 5 U.S.C. § 706(2)(C) (reviewing court shall hold unlawful agency's actions that exceed statutory jurisdiction or authority).

<sup>16</sup> Referral Organizations' Opposition at 6.

clearly imposed placing a separate obligation on carriers to implement the use of the 211 code. In short, neither of the parties opposing the petitions for reconsideration has contradicted Verizon Wireless' and other petitioners' showing that the assignment of 211 and 511 constitutes a "binding norm" and a rulemaking was therefore required.

**B. Those Opposing Reconsideration Fail to Show That the FCC Met Its Obligation to Consider and Address Carrier Concerns.**

Verizon Wireless also demonstrated why the Commission failed to discharge its duty to consider, address and respond to the significant comments it received in response to public notices it issued on the assignment of the 211 and 511 codes. The FCC failed to deal with these comments in any meaningful fashion, especially those regarding the particular application of its *Third Order* to CMRS carriers. The need for careful consideration prior to imposing regulations on CMRS carriers is essential given that Congress has directed the Commission to regulate only when there is a "clear cut need."<sup>17</sup>

CTIA's comments raised the technical difficulties associated with the rules as applied to wireless services, but the Commission completely ignored these comments.<sup>18</sup> Likewise, AT&T stressed the importance of routing calls to a single number per state in order to avoid "extremely difficult and costly translation and routing problems."<sup>19</sup> Similarly, Sprint PCS expressed several concerns related to the implementation of the 511 code for travel-relation information. Notably, Sprint PCS opposed assignment of an N11 code exclusively for use by state and local governments.<sup>20</sup> The reasons for this opposition (*i.e.*, concern with restricting competitive choices

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<sup>17</sup> *Petition of the Connecticut Dept. of Public Utility Control*, 10 FCC Rcd. 7025, 7031 (1995), *aff'm sub nom. Connecticut Dept. of Public Utility Control v. FCC*, 78 F.3d 842 (2d Cir. 1996).

<sup>18</sup> CTIA stated that if an N11 call may be routed to more than one number, wireless carriers must translate the N11 code based on the cell site the mobile customer is calling from. *See Reply Comments of CTIA* at 3, filed August 20, 1999.

<sup>19</sup> *See Comments of AT&T Corp.* at 2, filed July 20, 1999.

<sup>20</sup> *See Comments of Sprint PCS* at 2, filed July 20, 1999.

and undermining carrier flexibility to differentiate itself in the marketplace, and restricting the source of traffic information to the government) are the same reasons articulated and expanded upon by various parties in their petitions for reconsideration, including Verizon Wireless. Again, however, the Commission ignored these concerns.

The Commission's obligation to consider all significant comments is clear in notice and comment rulemakings. Ironically, the procedural posture of this proceeding is problematic because it places the FCC's *Third Order* in a regulatory "no man's land" irreconcilable with the APA. The APA obligates the FCC to respond to all significant comments, for "the opportunity to comment is meaningless unless the agency responds to significant points raised by the public."<sup>21</sup> As applied to the present facts, the FCC arbitrarily and capriciously ignored the wireless industry's significant comments and must reconsider its actions in light of those comments and the petitions for reconsideration.

**C. The Commission's Inconsistent Actions When Assigning Other N11 Codes Justifies Its Full and Fair Consideration of The Parties' Petitions.**

Both ITSA and the Referral Organizations assert that *Federal Register* publication was not necessary and that the Commission should dismiss the various petitions for reconsideration on the grounds that they are untimely.<sup>22</sup> Given that the Commission had an obligation to conduct a rulemaking, it also had the duty to publish its *Third Order* not less than 30 days before its effective date in the *Federal Register*<sup>23</sup> and to conduct a Final Regulatory Flexibility Analysis

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<sup>21</sup> *Alabama Power Co. v. Costle*, 204 U.S. App. D.C. 51, 636 F.2d 323, 384 (D.C. Cir. 1979) (quoting *Home Box Office, Inc. v. FCC*, 185 U.S. App. D.C. 142, 567 F.2d 9, 35-36 (D.C. Cir. 1977)). In determining whether a particular issue is significant, this court has emphasized that "the 'arbitrary and capricious' standard of review must be kept in mind." *Home Box Office*, 567 F.2d at 35 n.58. Significant comments are those which, if true, raise points relevant to the agency's decision *and which, if adopted, would require a change in an agency's proposed rule*; significant comments cast doubt on the reasonableness of a position taken by the agency. *Id.*

<sup>22</sup> ITSA Opposition at 10-11; Referral Organizations' Opposition at 7, 9.

<sup>23</sup> See 47 C.F.R. § 1.4(b)(1) (public notice for notice and comment rulemakings takes place upon publication in the *Federal Register*).

(“FRFA”).<sup>24</sup> The Commission eventually published the *Third Order* in the *Federal Register* many months after releasing it,<sup>25</sup> but contrary to proper procedure, the Commission made the *Third Order* effective immediately upon publication and did not include a FRFA with its decision.

The Commission’s procedural errors are made more conspicuous in light of its prior treatment of the assignment of N11 codes. Although the Commission sought comments on the U.S. Department of Justice’s request for the assignment of 311 as a non-emergency police number pursuant to a public notice,<sup>26</sup> when the Commission assigned the 311 code for non-emergency uses, it issued a separate Further Notice of Proposed Rulemaking to examine how 711 should be implemented for Telecommunications Relay Services (“TRS”),<sup>27</sup> obviously recognizing that it needed to initiate a rulemaking when it sought to implement the provision of the 711 code. In addition, when it assigned the 311 and 711 codes, it appended a FRFA to its decision and published the decision in the *Federal Register* shortly after it released it.<sup>28</sup> Given that FRFA is only appropriate when the agency is adopting rules,<sup>29</sup> the Commission’s actions have been inconsistent.<sup>30</sup>

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<sup>24</sup> 5 U.S.C. § 604(a) (When an agency promulgates a final rule under section 553, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis).

<sup>25</sup> 66 Fed. Reg. 9674 (Feb. 9, 2001).

<sup>26</sup> 61 Fed. Reg. 48874.

<sup>27</sup> Use of N11 Codes and Other Abbreviated Dialing Arrangements, *First Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd 5572 (1997).

<sup>28</sup> *Id.* at Appendix E; see also 62 Fed. Reg. 8633 (Feb. 26, 1997).

<sup>29</sup> Pursuant to 5 U.S.C. § 604(a), an agency must prepare a final regulatory flexibility analysis: “When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking.”

<sup>30</sup> One example of this type of agency action might be found in its recent decision to assign 911 as the nationwide emergency number. The Commission did not provide a FRFA when it assigned 911 because it was directed to assign the number by Congress in a self-executing statute. Implementation of the 911 Act, 15 FCC Rcd. 17,079 (2000). The Commission would not have been under an obligation to initiate a notice and comment rulemaking to assign the 911 code in light of the statutory directive.

In light of the deficiencies in the Commission's processes with respect to the *Third Order*, ITSA and the Referral Organizations are simply incorrect that the petitions for reconsideration are untimely. *Federal Register* publication triggered Verizon Wireless' right to challenge the order, which Verizon Wireless did within the time allowed by law. Accordingly, the claims of the ITSA and the Referral Organizations that the *Third Order* did not adopt a substantive rule and, therefore, the Petition filed by Verizon Wireless and others after *Federal Register* publication are untimely were erroneous and should be ignored.

## **II. OPPONENTS OF RECONSIDERATION FAIL TO SHOW WHY THE COMMISSION'S IMPOSITION OF 211 AND 511 REQUIREMENTS ON CARRIERS ARE NECESSARY.**

### **A. Free Market Processes Will Maximize Consumer Welfare and Benefit the Public Interest**

The Commission here chose not to rely on free market competition and carriers' differentiation of their offerings as the means of maximizing consumer welfare. Instead, it established new "on-demand" obligations for CMRS carriers and created new regulatory barriers for CMRS carriers. This was clearly improper for the many reasons set forth in the petitions.

In their opposition, the Referral Organizations argue that the Commission should uphold its decision to place the 211 dialing code under the control of entities and organizations involved in the provision of community information and referral services. AASHTO and ITSA similarly ask that the Commission affirm its decision to give federal, state, and local transportation agencies control over the 511 dialing code. At the same time, ITSA denies that the Commission's order has created a "government monopoly" on 511 traveler information services.<sup>31</sup> ITSA argues that the Commission's action will not impede free market processes or harm consumers, and it states that the Commission is merely working to ensure that basic

traveler information of consistent quality is easily accessible to the public.<sup>32</sup> ITSA contends that wireless carriers will likely be invited by government representatives to compete to offer 511 service, and that wireless carriers will not be precluded from offering their own branded traveler information services over other dialing codes.

The Commission should reject the arguments of the Referral Organizations, AASHTO, and ITSA, reverse its action, and allow wireless carriers to make decisions regarding implementation of these number arrangements. Wireless consumer welfare is maximized through reliance on free market processes and allowing carriers to determine the content, availability, manner of delivery, and cost of services. The CMRS marketplace is extraordinarily competitive, and wireless providers have enormous incentive to offer services, including abbreviated dialing codes, in the most efficient and consumer-friendly manner possible.<sup>33</sup> Opponents of reconsideration did not rebut these points at all; the record as it now stands thus supplies no requisite basis to show why government regulation here is necessary.

As Verizon Wireless pointed out in its Petition, this approach to the use of abbreviated dialing codes would be consistent with the Commission's statutory obligation to minimize regulation and promote competition in the CMRS industry.<sup>34</sup> Proper fidelity to the statutory and policy principles governing the Commission's oversight of CMRS should have led the Commission to trust that market forces would meet any demands by wireless customers for new N11 services. The *Third Order* offered no rationale at all as to why departure from these

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<sup>31</sup> ITSA Opposition at 21-22.

<sup>32</sup> *Id.* at 24.

<sup>33</sup> The Commission has expressed concern that traveler information services are under-utilized because travelers have difficulty remembering the relevant telephone numbers as they as they travel across jurisdictions. CMRS providers clearly have a powerful incentive to make such services as accessible as possible, however, and the Commission should rely on such market forces to achieve its goals, rather than impose regulatory requirements on these carriers.

<sup>34</sup> Verizon Wireless Petition at 5-6.

principles was justified here, and AASHTO, ITSA and the Referral Organization supply no such rationale.

AASHTO and ITSA assert that carriers and other private providers will still play a key role in the provision of 511 traveler information services, once carriers obtain the “franchise” right to provide such service in a given jurisdictional area, obtain “qualification” from a body of government agencies, or through some form of public/private partnership.<sup>35</sup> While Verizon Wireless appreciates AASHTO and ITSA’s intention to cooperate with CMRS carriers, this discussion raises the specter of countless new, potentially multi-jurisdictional bureaucracies whose duty it will be to select winning information service providers and micromanage their 511-related activities. Rather than promote free market initiative, these additional bureaucracies will absorb public resources and, through the likely close supervision of the 511 “franchisees” – and the attendant applications, reviews, negotiations, and other procedures – will only stymie innovation and impede service providers’ efforts to respond quickly to consumer demand.

Government control over 511 or any abbreviated dialing code is not a necessary prerequisite to productive public/private partnerships. In fact, as discussed in Verizon Wireless’ Petition, such partnerships have already formed, without giving government control over deployment, and these relationships would undoubtedly develop further if the Commission reaffirms CMRS carriers’ prerogatives to make deployment decisions.<sup>36</sup> In addition, ITSA’s suggestion that wireless carriers and other providers could establish competing, non-government-controlled traveler information services on other telephone codes provides little comfort.<sup>37</sup> Once 511 is established as the national number for traveler information services, this association will quickly become pervasive, if not universal, among consumers across the country.

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<sup>35</sup> ITSA Opposition at 24.

<sup>36</sup> Verizon Wireless Petition at 17.

**B. Opponents Fail to Rebut Petitioners' Showing that the 211 Mandate Will Create Multiple Problems For CMRS Carriers.**

Opponents of the petitions for reconsideration fail to counter petitioners' showing that the 211 mandate will not impose substantial and unjustified administrative and technical burdens on CMRS providers. The Referral Organizations point to state commissions as the means for resolving such issues as the definition of "community," the eligibility standard for 211 service providers, geographical mismatches between communities and CMRS market areas, and competing 211 requests.<sup>38</sup> But they do not explain how such a patchwork approach can alleviate the problems CMRS carriers would face.

Significantly, the Referral Organizations do not provide any information or argument to contradict Verizon Wireless' view that 211 compliance will constitute an enormously burdensome technical challenge for CMRS providers. As described in Verizon Wireless' Petition, this engineering quandary results from the likely granularity of community-based 211 calling areas and the inevitable geographical mismatches between these 211 areas and CMRS market areas. In order to accommodate the 211 requests of each community or agency, CMRS carriers will have to engineer a per-cell routing requirement instead of a system-wide or per-switch solution. Per-cell routing would be extraordinarily time-consuming and painfully complex to maintain.<sup>39</sup>

The Referral Organizations suggest that some states may elect to have a single state-wide operator for 211 services, but it obviously cannot control such decisions and presents no evidence that the norm will not be numerous community-based 211 call-areas within a state.<sup>40</sup> In

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<sup>37</sup> ITSA Opposition at 24.

<sup>38</sup> Referral Organizations' Opposition at 14-16.

<sup>39</sup> *Id.* at 13-15.

<sup>40</sup> *Id.* at 16.

fact, in their Opposition, the California Alliance of Information and Referral Services and INFO LINE of Los Angeles (“CAI”) indicate that community information and referral service is typically local in nature, that the assignment of a single 211 service provider in California (and in other large states) would be insufficient, and that in California deployment of 211 at the county level would likely be the most appropriate approach.<sup>41</sup> In other states, 211 call areas might be even smaller, making the wireless 211 routing challenge even more daunting.

In response to the concerns of Verizon Wireless and others, the Referral Organizations claim that it is not important that 211 call routing be accurate, saying that “[s]erious harm would not be caused if a wireless carrier handed off a 211 call to an adjacent county of other geographic area so long as the call is delivered to a 211 provider in the general proximity.”<sup>42</sup> Verizon Wireless and other CMRS providers, however, cannot afford to be so cavalier on this routing issue. It is not the Referral Organizations or the 211 service providers that will be subject to complaints from wireless consumers if 211 calls are regularly routed to the incorrect 211 call center. In the extraordinarily competitive CMRS marketplace, carriers will be forced to do their best to ensure that their 211 routing processes are as accurate as possible.

The Referral Organizations also fail to dispel the notion that the Commission’s 211 mandate will devolve into an administrative nightmare for CMRS providers. While it proposes eligibility criteria for 211 service providers and recommends that state commissions play the key role in such determinations, Verizon Wireless does not believe that reliance on state government will be an effective or efficient way to evaluate 211 requestors or, even worse, choose between competing 211 service applicants in a given 211 call area.<sup>43</sup> With respect to the latter, while the

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<sup>41</sup> CAI Opposition at 6-7.

<sup>42</sup> Referral Organizations’ Opposition at 18.

<sup>43</sup> *Id.* at 16.

Referral Organizations view mutually exclusive 211 requests as “unlikely,” CAI’s Opposition leaves the distinct impression that there may often be disagreements between different organizations over what constitutes a community and who best represents a particular community’s interests.

These concerns are not speculative. Verizon Wireless is already receiving inquiries for 211 arrangements. While the Referral Organizations hope in vain for effective state action, the fact remains that, as of the moment, the Commission’s open-ended 211 mandate establishes no explicit limits on carriers’ obligations to provide 211 access, and does not even limit 211 eligibility to those entities that are legally, operationally, and financially qualified to provide such services on an appropriate scale. Nor do CMRS carriers have any guidance on how to meet 211 demands from an entity seeking use of 211 throughout the service area, and requests from other entities within that other to serve smaller jurisdictions or communities. As more and more 211 service requests come in from around the country, Verizon Wireless and other carriers are likely to be bogged down by an unwieldy administrative morass. In the end, CMRS carriers must have the final say in implementing network-impacting community-based information and referral services. To reach this result, the Commission should expeditiously reverse the *Third Order* as applied to CMRS carriers.

## CONCLUSION

The Commission should reconsider the *Third Report*, remove its mandate that CMRS carriers implement the specific services provided via the 211 and 511 codes, and allow CMRS carriers to determine how to use those numbers to serve customers and offer the services that the market demands.

Respectfully submitted,

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Dated: April 23, 2001

**Certificate of Service**

I hereby certify that on this 23<sup>rd</sup> day of April copies of the foregoing “Verizon Wireless Reply to Oppositions” in CC Docket 92-105 were sent by first-class mail to the following parties:

Ilsa Flanagan  
United Way of America  
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David J. Hensing  
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Susan Brown Campbell  
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Dean Carlson  
American Association of State Highway and  
Transportation Officials  
444 North Capitol Street, NW – Suite 249  
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A handwritten signature in black ink, reading "Sarah E. Weisman". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

Sarah E. Weisman